

Existing law requires every person, firm, corporation, association, or governmental entity owning, controlling, or operating any business or service, which, furnishes, operates, conducts, maintains, advertises, engages in, proposes to engage in, or professes to engage in the business or service of transporting by air ambulance persons who may need medical attention during transport to be licensed as an air ambulance service in the state. Prior law required licensure if a substantial portion of the business was air ambulance services. Provided optional licensure for similar persons, firms, corporations, associations, or entities which do not have a substantial interest.

New law deletes the optional licensure in prior law. Provides that no person, firm, corporation, association, or governmental entity shall conduct, manage, operate, or maintain an air ambulance service in the state without a valid current license from the Dept. of Health and Hospitals (DHH).

Defines an "air ambulance service" as any person, firm, association, or government entity owning, controlling, or operating any business or service which, furnishes, operates, conducts, maintains, advertises, engages in, proposes to engage in, or professes to engage in the business or service of transporting, in air ambulances, individuals who may need medical attention during transport.

Defines "air ambulance" as any aircraft, either fixed-wing or rotary-winged, designed and operated as a part of a regular course of conduct or business to transport a sick or injured individual or which is advertised or otherwise held out to the public as such.

Existing law requires the following be submitted as part of an application for licensure as an air ambulance service:

An application on forms provided by DHH for this purpose. The application shall provide documentation that the licensee meets the appropriate requirements for an air ambulance service as specified by regulations promulgated by DHH in accordance with the Administrative Procedure Act (APA).

New law retains existing law.

Prior law additionally required an application be accompanied by a \$50 licensure fee.

New law deletes the \$50 fee, but provides for a fee schedule, including a \$150 initial licensure fee.

Existing law provides that an applicant seeking licensure as an air ambulance service shall:

- (1) Submit a completed application to DHH on such forms and including such information as specified by the department.
- (2) Certify that all aircraft and crew members meet applicable Federal Aviation Administration (FAA) regulations.
- (3) Specify if the service uses either fixed-wing or rotary-winged aircraft, or both.

New law retains existing law.

Prior law required that an applicant:

- (1) Certify that all medical equipment required by local protocol is available and in good working order.
- (2) Provide proof of adequate insurance coverage of not less than \$100,000 per person and \$300,000 per incident for claims arising out of injury or death of persons and damage to property of others resulting from any cause for which the owner of such business or service would be liable.

New law deletes prior law but requires such information be reviewed as part of the inspection process.

New law requires each ambulance service seeking licensure to submit to a background investigation which includes fingerprinting and a criminal history check by the office of state police.

New law requires an initial and annual inspection of an air ambulance service including the following:

- (1) An inspection of all aircraft utilized as air ambulances to ensure that all required medical and safety equipment is present and operational. The medical and safety equipment shall conform to local protocol as established by the service's medical director and to a list of required medical and safety equipment be established under rules promulgated by DHH based upon the recommendations of an advisory committee composed of the following:
 - (a) The DHH medical director.
 - (b) The director of the EMS bureau.
 - (c) One representative of DHH, office of the secretary, bureau of health services financing, health standards section.
 - (d) One representative of the Governor's Emergency Medical Services for Children Advisory Council.
 - (e) One representative of the Dept. of Transportation and Development, office of public works and intermodal transportation, aviation section.
 - (f) One representative of each licensed air ambulance service.
- (2) Verification that all aircraft meet FAA requirements.
- (3) Review of certification of personnel to insure they meet all FAA requirements and local pilot and medical personnel staffing protocols.
- (4) Verification that the applicant has an original notarized certificate of insurance for the following coverage:
 - (a) \$500,000 of aircraft liability insurance.
 - (b) \$500,000 of medical malpractice insurance or proof of participation in the Patient's Compensation Fund.
 - (c) \$500,000 of commercial general liability insurance.
- (5) Verification that there is a medical director and that the director is a

physician licensed by the state medical board.

- (6) A review of medical protocols signed by the service's medical director, accompanied by the necessary approvals of the parish or component medical society in the service's parish of domicile.
- (7) Verification that the service has complied with all applicable federal, state, and local statutes, rules, and regulations, and that the service has obtained all necessary and applicable licenses, permits, and certifications, including certificates of need or certificates of public convenience and necessity.

Noncompliance of existing and new law shall constitute grounds for probation or license suspension or revocation in accordance with rules and regulations.

New law provides to any person whose license has been revoked, suspended, or denied the right to have the proceedings reviewed by a court of competent jurisdiction, provided that such appeal is made within 30 days after the notice of DHH's decision. If an appeal is granted, DHH's decision shall not be implemented until affirmative judicial review. DHH's decision shall remain in force until an appeal is granted unless the court orders a stay. Judicial review shall be by trial de novo.

New law provides that any entity currently certified to provide air ambulance services shall not be required to be licensed by the state in order to maintain certification for a period of one year after July 15, 1999, in order to continue providing such services.

New law sets the following fees for air ambulance services:

- (1) An initial licensing fee of \$150.
- (2) An annual renewal fee of \$100.
- (3) A delinquent fee of \$100 for late payment of license renewal and \$25 per aircraft for late payment of an aircraft inspection fee. Such delinquent fee shall be assessed and shall become due and payable at 12:01 a.m. on the thirty-sixth day following the date of the invoice by which the department bills the applicant or licensee.
- (4) An aircraft inspection fee of \$75 per aircraft, submitted with each initial and renewal application and with each application for a permit for an aircraft added to service by the applicant.
- (5) A change of address fee of \$10.
- (6) A duplicate license fee of \$10.

Provides that the opening or operation of an air ambulance service without a current license shall be a misdemeanor, punishable upon conviction by a fine of not less \$1,000 and not more than \$5,000. Each day's violation shall constitute a separate offense.

Any person or entity violating the provisions of existing and new law pertaining to air ambulances, when such violation poses a threat to the health, safety, rights, or welfare of a patient and/or client may be liable to civil fines and other penalties, to be assessed by DHH, in addition to any criminal action which may be brought under other applicable laws. Requires DHH to adopt rules in accordance with the APA which define specific classifications of violations, articulate factors in assessing civil fines including mitigating

circumstances, and explain the treatment of continuing and repeat deficiencies.

The schedule of civil fines and other penalties by class of violation is as follows:

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| Class A | Violations concerning the number or qualifications of personnel, a civil fine of not more than \$500 for the first violation and not more than \$1,000 per day for each repeat violation. |
| Class B | Violations concerning insurance coverage, requires service's license to be immediately suspended until it meets those requirements, and subject to a civil fine of not more than \$500 for the first violation and not more than \$1,000 per day for each repeat violation. |
| Class C | Violations of operating without undergoing any inspection required, subject to a civil fine of not more than \$500 for the first violation and not more than \$1,000 per day for each repeat violation. |
| Class D | Violations concerning medical and safety equipment, provides for a fine of not more than \$100 for the first offense, not more than \$500 for subsequent violation. |

Further provides that class A, C, and D violations pertain to air ambulances and that air ambulances in violation shall be removed from operation until violations are remedied.

Provides that DHH shall adopt rules and regulations in accordance with the APA for notice to the ambulance service of any violation, of its right to an informal reconsideration process, and of the available appeal procedure, including judicial review. Such appeal shall be suspensive.

Provides that the air ambulance service shall furnish, with an appeal, bond in the minimum amount of 1-1/2 times the amount of the fine imposed by DHH. The bond shall provide in substance that it is furnished as security that the ambulance service will prosecute its appeal, and that any judgment against it, including court costs, will be paid or satisfied from the amount furnished. The appeal shall be heard as a summary proceeding which shall be given precedence over other pending matters.

Authorizes DHH to institute all necessary civil court action to collect fines imposed and not timely appealed. No air ambulance service may claim imposed fines as reimbursable costs, nor increase charges to patients and/or clients as a result of such fines. Interest shall begin to accrue on any fine at the current judicial rate on the day following the date on which the fine becomes due and payable.

Effective August 15, 1999.

(Amends R.S. 40:1231 and 1236.2(A), (B), (C), (E)(1), and (G); Adds R.S. 40:1236.2(E)(4) and (H), 1236.6, and 1236.7)